

MONTANA LEGISLATIVE HISTORY

Chapter 504 19 77

Bill H _____ S 401 Original bill & history C

H. Committee on State Administration S. Committee on Local Government

Hearing Date(s) Mar 12 ☒ C

Hearing Date(s) Feb 15 ☒ C

Mar 23 ☒ C

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Feb 21 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 *Senate* BILL NO. *401*
2 INTRODUCED BY *Four Flynn*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
5 CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS REGARDING BUILDING
6 CODES; PROVIDING FOR PROMULGATION OF CODES BY THE DEPARTMENT
7 OF ADMINISTRATION; AMENDING SECTIONS 66-2416, 66-2417,
8 66-2427, 66-2802, 66-2805.1, 69-2105, 69-2111, 69-2112,
9 69-2124, 75-8206, 75-8207, 82-1201, 82-1202, 82-1202.1,
10 82-1208, 82-1229, 82-1232, AND 82A-1607, R.C.M. 1947; AND
11 REPEALING SECTIONS 69-4117 AND 69-5507, R.C.M. 1947."
12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 Section 1. Section 69-2105, R.C.M. 1947, is amended to
15 read as follows:
16 "69-2105. Definitions. As used in this chapter, unless
17 the context requires otherwise:
18 (1) "Municipality" means any incorporated city or town
19 and its jurisdictional area as defined by subsection (12) of
20 this section.
21 (2) "Building regulations" means any law, rule,
22 resolution, regulation, ordinance, or code, general or
23 special, or compilation thereof enacted or adopted by the
24 state or any municipality, including departments, boards,
25 bureaus, commissions, or other agencies of the state or a

1 municipality relating to the design, construction,
2 reconstruction, alteration, conversion, repair inspection,
3 or use of buildings and installation of equipment in
4 buildings. The term does not include zoning ordinances.
5 (3) "Department" means the department of
6 administration provided for in title 82A, chapter 2.
7 (4) "Local building department" means the agency or
8 agencies of any municipality charged with the
9 administration, supervision, or enforcement of building
10 regulations, approval of plans, inspection of buildings, or
11 the issuance of permits, licenses, certificates and similar
12 documents, prescribed or required by state or local building
13 regulations.
14 (5) "State agency" means any state officer,
15 department, board, bureau, commission, or other agency of
16 this state.
17 (6) "Building" means a combination of any materials,
18 whether mobile, portable, or fixed to form a structure and
19 the related facilities for the use or occupancy by persons,
20 or property. The word "building" shall be construed as
21 though followed by the words "or part or parts thereof."
22 (7) "Equipment" means plumbing, heating, electrical,
23 ventilating, air conditioning, and refrigerating equipment,
24 elevators, dumb-waiters, escalators, and other mechanical
25 additions or installations.

INTRODUCED BILL

-2-

SB401

(8) "Construction" means the original construction, and equipment of buildings, and requirements or standards relating to or affecting materials used including provisions for safety and sanitary conditions.

(9) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm, or corporation, in control of a building.

(10) "Local legislative body" means the council or commission charged with governing the municipality.

(11) "State building code" means the state building code provided for in section 69-2111 or any portion of the code of limited application, and any of its modifications or amendments.

(12) "Municipal jurisdictional area" means the area within the limits of an incorporated municipality unless the area is extended at the written request of a municipality. Upon request the council may approve extension of the jurisdictional area to include: (a) all or part of the area within ~~four and one-half~~ {4 1/2} miles of the corporate limits of a municipality; (b) all of any platted subdivision which is partially within ~~four and one-half~~ {4 1/2} miles of the corporate limits of a municipality; and (c) all of any zoning district adopted pursuant to Title 16, chapter 41 or

47, R.C.M. 1947, which is partially within ~~four and one-half~~ {4 1/2} miles of the corporate limits of a municipality. Distances shall be measured in a straight line in a horizontal plane.

(13) "Public place" means any place which a municipality or state maintains for the use of the public, or a place where the public has a right to go and be.

~~{14} "Mobile home" means anything defined as a mobile home in the edition of National Fire Protection Association (NFPA) No. 501B or American National Standards Institute (ANSI) A119.1 most recently adopted by the state in accordance with section 69-2122.~~

~~{15} {14} "Recreational vehicle" means anything defined as a recreational vehicle in the edition of NFPA No. 501C or ANSI A119.2 most recently adopted by the state in accordance with section 69-2122."~~

Section 2. Section 69-2111, R.C.M. 1947, is amended to read as follows:

"69-2111. Adoption of rules by department. (1) The department shall adopt by reference nationally recognized building codes in whole or in part, amend and repeal rules relating to the construction of all buildings or classes of buildings or the installation of equipment in those buildings, and may by rule prescribe standards or requirements for materials to be used in buildings including

provisions dealing with safety, sanitation and conservation of energy. The rules, when adopted as provided in this chapter, constitute the "state building code" and shall be acceptable for the buildings to which it is applicable.

(2) The department may hold hearings relating to the administration of this act in accordance with the Montana Administrative Procedure Act.

(3) Except as provided in subsection (4) of this section, no rule and no amendment or repeal of the state building code shall take effect until after a public hearing by the department.

(4) If a hearing has been held by the department of justice with respect to its duties contained in Title 82, chapter 12, the board of plumbers, the department of health and environmental sciences, board of warm air heating, ventilation, and air conditioning, or state electrical board, on a proposed rule relating to building and equipment standards in their respective fields, a public hearing by the department is not required. The proposed rule is effective upon approval of the department and filing with the secretary of state as a part of the state building code.

~~(5) If a rule relating to building or equipment standards is proposed by the department of justice with respect to its duties contained in Title 82, chapter 12, board of plumbers, department of health and environmental~~

~~sciences, board of warm air heating, ventilation, and air conditioning, or state electrical board which conflicts with the state building code, the department shall modify the proposed rule or the state building code to resolve the conflict after consultation with the state agencies affected."~~

Section 3. Section 69-2112, R.C.M. 1947, is amended to read as follows:

"69-2112. Municipal building codes -- applicability of state code. (1) The local legislative body of a municipality or county may adopt a municipal building code by ordinance to apply to the municipal or county jurisdictional area. A municipal building code shall require standards equal to those of the state building code or higher standards. A municipal building code must cover all general areas included in the state building code. A municipal or county building code may include only codes adopted by the department.

(2) If a municipality or county does not adopt a municipal building code as provided in subsection (1) of this section, the state building code applies within the municipal or county jurisdictional area and the state will enforce the code in these areas.

~~(3) The department shall determine whether a municipal building code has standards equal to those of the state~~

1 ~~building code or higher standards and notify municipalities~~
 2 ~~immediately if any municipal standards are below the state~~
 3 ~~standards. A county or municipality may not enforce a~~
 4 ~~building code unless the code adopted and a plan for~~
 5 ~~enforcement of the code have been approved by the~~
 6 ~~department.~~

7 (4) ~~If a municipal code is adopted, a copy of the code~~
 8 ~~and any amendments to the code shall be filed with the~~
 9 ~~department. The department shall set forth rules and~~
 10 ~~standards governing the certification of municipal and~~
 11 ~~county building code programs as required in subsection~~
 12 ~~(31).~~

13 Section 4. Section 69-2124, R.C.M. 1947, is amended to
 14 read as follows:

15 "69-2124. Fees. The department shall establish a
 16 schedule of fees ~~for the inspection of plans and~~
 17 ~~specifications for mobile homes or recreational vehicles and~~
 18 ~~for the inspection of individual units and may collect fees~~
 19 ~~for the inspection of plans and specifications and for the~~
 20 ~~inspection of buildings, factory-built buildings,~~
 21 ~~recreational vehicles, tramways, or any other facility or~~
 22 ~~structure.~~ The department may utilize independent testing
 23 laboratories or the agencies of other states to determine if
 24 approved models of ~~mobile homes factory-built buildings~~ or
 25 recreational vehicles are being constructed in accordance

1 with the approved plans and specifications for said models."

2 Section 5. Section 82-1201, R.C.M. 1947, is amended to
 3 read as follows:

4 "82-1201. ~~Erection of office of state fire~~ Fire
 5 marshal ~~bureau~~ ~~fire prevention advisory commission.~~

6 (1) ~~There is an office of state a fire marshal bureau,~~
 7 ~~which is under the supervision and control of the~~
 8 ~~commissioner of insurance within the department of~~
 9 ~~administration.~~

10 (2) The state fire marshal shall be appointed by the
 11 ~~commissioner of insurance and shall serve at his pleasure~~
 12 ~~employed by the department of administration.~~

13 (3) A person ~~appointed~~ employed as state fire marshal
 14 shall:

15 (a) have at least ~~ten~~ {10} years of progressively
 16 responsible experience in fire protection; or

17 (b) a degree in engineering from a recognized
 18 institution of higher education and ~~two~~ {2} years'
 19 experience in fire protection; or

20 (c) a degree from a recognized institution of higher
 21 education in fire protection engineering or fire protection
 22 technology.

23 ~~{4} Not later than thirty {30} days after this act~~
 24 ~~becomes effective the commissioner of insurance shall~~
 25 ~~appoint a fire prevention advisory commission composed of~~

1 the following members:

2 (a) ~~One person representing the fire insurance~~
3 ~~industry whose initial term shall be for one (1) year;~~

4 (b) ~~One person representing industry whose initial~~
5 ~~term shall be for one (1) year;~~

6 (c) ~~One person representing full-time paid fire~~
7 ~~departments whose initial term shall be for two (2) years;~~

8 (d) ~~One person representing volunteer fire departments~~
9 ~~whose initial term shall be for two (2) years;~~

10 (e) ~~One person representing architects of the state~~
11 ~~whose initial term shall be for three (3) years;~~

12 (f) ~~One person representing the public whose initial~~
13 ~~term shall be for four (4) years;~~

14 (g) ~~The commissioner of insurance~~

15 ~~After termination of the initial term, all members~~
16 ~~shall be appointed for four (4) year terms. Appointed~~
17 ~~members of the commission shall be reimbursed for meetings~~
18 ~~at the rate of twenty dollars (\$20) per day plus actual~~
19 ~~expenses including mileage, food, and lodging. The~~
20 ~~commissioner of insurance shall serve as chairman, and the~~
21 ~~state fire marshal shall serve as secretary of the~~
22 ~~commission.~~

23 Section 6. Section 82-1202, R.C.M. 1947, is amended to
24 read as follows:

25 "82-1202. Powers of the state fire marshal. The state

1 fire marshal shall:

2 (1) Make at least one inspection during every year, of
3 each state institution, and submit a copy of the report to
4 the state department of institutions with recommendations in
5 regard to fire prevention, fire protection and to the public
6 safety.

7 (2) Make at least one inspection during every year, of
8 each unit of the Montana university system, and submit a
9 copy of the report to the executive secretary of the
10 university system with recommendations in regard to fire
11 prevention, fire protection and to the public safety.

12 (3) Inspect public, business, or industrial buildings
13 and require conformance to law or rules promulgated under
14 the provisions of this act.

15 (4) Do all things necessary and convenient for
16 carrying into effect the fire prevention laws of this state
17 governing this act and may, adopt necessary rules for
18 safeguarding lives and property from the hazards of fire and
19 explosion. Rules shall be adopted as prescribed in the
20 "Montana Administrative Procedure Act". If fire prevention
21 rules are violated, the fire marshal may maintain an action
22 to enjoin the use of all or a portion of a building or
23 facility, or restrain a specific activity, until there is
24 compliance with the rules.

25 (5) ~~Rules relating to building and equipment standards~~

~~covered by the state or a municipal building code are effective after approval by the department of administration and filing with the secretary of state."~~

Section 7. Section 82-1202.1, R.C.M. 1947, is amended to read as follows:

"82-1202.1. Rules promulgated by state fire marshal -- adoption of other standards -- providing for licensing -- providing for a penalty for violation. (1) Rules promulgated by the state fire marshal by authority of ~~section 82-1202, R.C.M. 1947,~~ shall be reasonable and calculated to effect the purposes of this act. They shall include but not be limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: ~~structural requirements for various types of construction; building restrictions within congested districts;~~ exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of flammable finishes; explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; flammable motion picture film, combustible fibres; hazardous chemicals; rubbish, open flame

devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(2) If rules relate to building and equipment standards covered by the state or a municipal building code, ~~the rules are effective upon approval of the department of administration and filing with the secretary of state the rules shall be promulgated by the department of administration.~~

(3) Standards of the National Fire Protection Association, ~~United States Bureau of Standards,~~ and American Insurance Association Standards may be adopted in whole or in part by reference.

(4) A natural person must obtain a certificate of registration from the state fire marshal prior to servicing or installing of fire extinguishers, fire alarm systems or fire extinguishing systems. A person or firm must obtain from the fire marshal a permit to sell or a license to install fire extinguishers, fire alarm systems, or fire extinguishing systems, prior to engaging in such business.

(a) Applications for licenses, permits or certificates, shall be made on a form prescribed by the state fire marshal. The fire marshal shall issue a license to an applicant who submits satisfactory proof that he is properly equipped and staffed to provide the services to be licensed, and who pays the required fee. The fire marshal

1 shall issue a certificate of registration to an applicant
2 who scores a passing grade on an examination devised by the
3 fire marshal, and who pays the required fee. The fire
4 marshal shall issue a sales permit to an applicant who
5 submits the information required by the fire marshal on the
6 application form, who submits satisfactory proof that he
7 deals only in equipment that meets the standards and
8 regulations of the state fire marshal, and who pays the
9 required fee.

10 (b) The state fire marshal may conduct inspections,
11 examinations or hearings prior to the issuance of licenses,
12 permits or certificates. The state fire marshal may revoke,
13 suspend or refuse to issue a license, permit or certificate
14 for violation of the provisions of this chapter or any rules
15 and regulations promulgated by the fire marshal under
16 applicable law.

17 (c) The state fire marshal or his representative shall
18 charge a fee, not to exceed a total of ~~twenty-five dollars~~
19 ~~(\$25)~~ for the inspection and issuance of licenses, permits
20 and certificates.

21 (d) All fees collected under this section shall be
22 paid into the general fund.

23 (5) Any person violating any rule made under the
24 provisions of this section shall be guilty of a
25 misdemeanor."

1 Section 8. Section 82-1208, R.C.M. 1947, is amended to
2 read as follows:

3 "82-1208. Special deputy fire marshals -- acting fire
4 marshal -- fire marshal's employees. (1) In an emergency,
5 or during the absence or disability of the state fire
6 marshal, the ~~attorney-general~~ director of the department of
7 administration may appoint an acting fire marshal, who shall
8 perform the duties of the office, or any duty which may be
9 assigned to him, such appointment to cease when the
10 necessity therefor has been relieved.

11 (2) The state fire marshal may appoint special deputy
12 state fire marshals throughout the state and define their
13 duties. When performing these duties or attending a training
14 course conducted by the state fire marshal, special deputy
15 fire marshals may be paid at a rate not to exceed ~~forty~~
16 ~~dollars--(\$40)~~ per day plus per diem allowance for expenses
17 and mileage at the same rates specified for state employees.

18 (3) The fire marshal may appoint assistants and
19 clerical employees to perform duties as specified by the
20 marshal to assist in carrying out the duties assigned him by
21 law."

22 Section 9. Section 82-1229, R.C.M. 1947, is amended to
23 read as follows:

24 "82-1229. Annual reports to ~~commissioner of insurance~~
25 the department of administration. The state fire marshal

1 shall make an annual report to the ~~commissioner of insurance~~
 2 ~~department of administration~~, containing a detailed
 3 statement of his official action and the transactions of his
 4 ~~department bureau~~. The ~~commissioner of insurance director~~
 5 shall, in turn, submit said report to the governor of the
 6 state, with such recommendations and comments thereon as he
 7 may deem ~~consider~~ necessary."

8 Section 10. Section 82-1232, R.C.M. 1947, is amended
 9 to read as follows:

10 "82-1232. Powers of ~~commissioner of insurance~~
 11 ~~department of administration~~. The powers and authority
 12 granted by this act to the state fire marshal are also
 13 vested in the ~~commissioner of insurance director of the~~
 14 ~~department of administration~~."

15 Section 11. Section 66-2416, R.C.M. 1947, is amended
 16 to read as follows:

17 "66-2416. Minimum standards -- state plumbing code --
 18 fee for copy of code. ~~(1)~~ The ~~board department of~~
 19 ~~administration~~ shall by rule prescribe minimum standards
 20 which are uniform and which are thereafter effective for all
 21 plumbing installations or maintenance, except where exempt
 22 by section 66-2426. ~~Upon approval of the department of~~
 23 ~~administration, department of health and environmental~~
 24 ~~sciences and the attorney general, and upon publication, the~~
 25 ~~rules become the state plumbing code and have the force of~~

1 ~~law. A copy of the code shall be supplied to each person~~
 2 ~~licensed under sections 66-2401 through 66-2411, or any~~
 3 ~~other interested person, for an amount equal to the actual~~
 4 ~~current cost of the code plus postage.~~

5 ~~(2) Rules relating to building and equipment standards~~
 6 ~~covered by the state or a municipal building code are~~
 7 ~~effective after approval by the department of administration~~
 8 ~~and filing with the secretary of state."~~

9 Section 12. Section 66-2417, R.C.M. 1947, is amended
 10 to read as follows:

11 "66-2417. District court -- jurisdiction --
 12 restraining orders. The district court of any county has
 13 jurisdiction in equity, on application of the board ~~or the~~
 14 ~~department of health and environmental sciences department~~
 15 ~~of administration~~, to enforce this act and to restrain from
 16 connection any new plumbing installations, on finding, after
 17 hearing, that the plumbing is inferior to the standards of
 18 the state plumbing code."

19 Section 13. Section 66-2427, R.C.M. 1947, is amended
 20 to read as follows:

21 "66-2427. Permit fee -- payment -- penalties. (1) It
 22 is unlawful for any person to engage in the business, trade,
 23 or work having to do with the installation, removal,
 24 alteration, or repair of plumbing and drainage systems or
 25 parts thereof without first obtaining a permit from the

1 ~~board of plumbers department of administration.~~

2 A separate permit shall be obtained for each building
3 or structure.

4 No person may allow any other person to do or cause to
5 be done any work under a permit secured by the permittee
6 except persons in his employ.

7 (2) No permit is required for any minor replacement or
8 repair work, the performance of which does not have a
9 significant potential for creating a condition hazardous to
10 public health and safety. No permit is required where the
11 installation is exempt under the provisions of section
12 66-2426 or 66-2401. Nothing contained in this act shall
13 prohibit the owner of residential property from making an
14 installation for all sanitary plumbing and potable water
15 supply piping without a permit providing he does the work
16 himself. The provisions of this act do not apply to
17 regularly employed maintenance personnel doing maintenance
18 work on the business premises of their employer unless work
19 is subject to the permit provisions of this act.

20 (3) Persons required by this section to apply for a
21 permit shall make application on forms provided by the board
22 ~~department of administration~~ or authorized representative.
23 He shall give a description of the character of the work
24 proposed to be done, and the location, ownership, occupancy
25 and use of the premises in connection therewith. The board

1 ~~of plumbers department of administration~~ or its authorized
2 representative may require sketches, specifications or
3 drawings and such other information it deems necessary in
4 order to determine the scope of the work contemplated.

5 If the board ~~department of administration~~ determines
6 that the sketches, specifications, drawings, descriptions
7 and information furnished by the applicant are in compliance
8 with the state plumbing code, it shall issue the permit
9 applied for upon payment of the required fee as established
10 by the board ~~department of administration~~.

11 (4) Any person who commences any work for which a
12 permit is required without first obtaining a permit shall,
13 if subsequently permitted to obtain a permit, pay double the
14 permit fee for the work, except that this provision does not
15 apply to emergency work when it is proved to the
16 satisfaction of the ~~board of plumbers department of~~
17 ~~administration~~ or its authorized representative that the
18 work was urgently necessary and that it was not practical to
19 obtain a permit before the commencement of the work. In all
20 such cases, a permit shall be obtained as soon as it is
21 practical to do so, and if there is unreasonable delay in
22 applying for the permit, a double fee shall be charged.

23 For the purpose of this section, a sanitary plumbing
24 outlet on or to which a plumbing fixture or appliance may be
25 set or attached shall be construed to be a fixture. Fees

1 for reconnection and retest of plumbing systems in relocated
2 buildings shall be based on the number of plumbing fixtures,
3 gas systems, water heaters, and the like involved.

4 When a permit has been obtained to connect an existing
5 building or existing work to the public sewer or to connect
6 to a new private disposal facility, backfilling of private
7 sewage disposal facilities abandoned consequent to the
8 connection is included in the permit.

9 ~~The board of plumbers department of administration~~
10 shall establish permit fees in accordance with the Montana
11 Administrative Procedure Act and the fees shall be deposited
12 to the earmarked revenue fund of the ~~board of plumbers~~
13 ~~department of administration~~ for use in the administration
14 and enforcement of this act and the Montana state plumbing
15 code.

16 (5) All plumbing and drainage systems may be inspected
17 by the ~~board of plumbers department of administration~~ or
18 their authorized representative to insure compliance with
19 the requirements of the state plumbing code.

20 (6) It is the duty of the person doing work authorized
21 by the permit to notify the ~~board department of~~
22 ~~administration~~ orally or in writing, that the work is ready
23 for inspection. The notification shall be given not less
24 than ~~twenty-four (24)~~ hours before the work is to be
25 inspected.

1 It is the duty of the person doing the work authorized
2 by the permit to ensure that the work performed before
3 notification and after notification pending inspection
4 complies with the state plumbing code.

5 (7) Whenever any work is being done contrary to the
6 provisions of the state plumbing code, the ~~board department~~
7 ~~of administration~~ or its authorized representative may,
8 after a hearing conducted under the provisions of the
9 Montana Administrative Procedure Act, order work stopped by
10 notice in writing served on any person engaged in the work.

11 (8) The ~~board department of administration~~ may suspend
12 or revoke a permit, whenever it is issued in error or on the
13 basis of incorrect information supplied, or work performed
14 thereunder is in violation of any of the provisions of Title
15 66, chapter 24, ~~R.C.M. 1947.~~

16 Section 14. Section 66-2802, R.C.M. 1947, is amended
17 to read as follows:

18 "66-2802. Purpose. (1) The purpose of this act is to
19 protect the health and safety of the people of this state
20 from the danger of electrically caused shocks, fires, and
21 explosions; to protect property from the hazard of
22 electrically caused fires and explosions; to establish a
23 procedure for determining where and by whom electrical
24 installations are to be made; to assure the public that
25 persons making electrical installations are qualified; and

1 to insure that the electrical installations and electrical
 2 products made and sold in this state meet minimum safety
 3 standards. All installations in this state of wires and
 4 equipment to convey electric current and installations of
 5 apparatus to be operated by current, except as provided in
 6 section 66-2812, shall be made substantially in accord with
 7 ~~the National Electrical Code, as approved by the American~~
 8 ~~standards association, relating to this work as far as it~~
 9 ~~covers fire and personal injury hazards, and as the National~~
 10 ~~Electrical Code shall be amended. The standards as set forth~~
 11 ~~in the National Electrical Code shall be prima facie~~
 12 ~~evidence of minimum approved methods of construction for~~
 13 ~~safety to life and property. The affirmative vote of a~~
 14 ~~majority of all appointed members of the board shall be~~
 15 ~~required to set any standards that are more stringent than~~
 16 ~~those set forth in the National Electrical Code building~~
 17 codes adopted by the department of administration.

18 (2) Rules and standards relating to buildings and
 19 equipment covered by the state or a municipal building code
 20 ~~are not effective until approved by the department of~~
 21 ~~administration and filed with the secretary of state shall~~
 22 be promulgated by the department of administration."

23 Section 15. Section 66-2805.1, R.C.M. 1947, is amended
 24 to read as follows:

25 "66-2805.1. Department -- inspections -- tags.

1 (1) The department of administration shall make inspections
 2 of electrical installations, issue inspection tags for these
 3 installations, and establish and charge a reasonable and
 4 uniform fee for the inspections, which may not exceed the
 5 expense of providing the inspection.

6 (2) Individuals, firms, cooperatives, corporations, or
 7 municipalities selling electricity are power suppliers.
 8 Power suppliers may not connect with or energize an
 9 electrical installation under this act, unless the owner or
 10 a licensed electrical contractor has delivered to the power
 11 supplier an inspection tag covering the installation, issued
 12 by the department of administration.

13 (3) Immediately after an installation has been
 14 energized, the power supplier shall deliver to the
 15 department of administration the inspection tag covering the
 16 installation.

17 (4) It is unlawful for a person, partnership, company,
 18 firm, association, or corporation, other than a power
 19 supplier, to energize an electrical installation under this
 20 act, unless an application for an inspection tag covering
 21 the installation, together with the inspection fee, has been
 22 forwarded to the department of administration."

23 Section 16. Section 82A-1607, R.C.M. 1947, is amended
 24 to read as follows:

25 "82A-1607. Electrical inspections and code making. The

1 functions of the department of law enforcement and public
 2 safety of making inspections of electrical installations and
 3 issuing tags and charging fees therefor as set forth in
 4 ~~section 66-2805(c)(i) and of establishing an electrical code~~
 5 ~~as set forth in section 66-2802(i), which were transferred~~
 6 ~~to the department in section 82A-1203, are transferred to~~
 7 ~~the department of professional and occupational licensing~~
 8 ~~and the board of electricians, subject to the provisions of~~
 9 ~~this act administration."~~

10 Section 17. Section 75-8206, R.C.M. 1947, is amended
 11 to read as follows:

12 "75-8206. Review and approval of school building plans
 13 and specifications. (1) No school building in the state,
 14 either publicly or privately owned or operated, shall be
 15 built, enlarged, remodeled, or repaired until the plans and
 16 specifications for such construction have been submitted to
 17 ~~the state board of health and the state fire marshal, and~~
 18 ~~such public agencies have endorsed their approval on such~~
 19 ~~plans and specifications and approved by the department of~~
 20 ~~administration.~~

21 (2) The plans and specifications shall show in detail
 22 the proposed construction of the building and shall
 23 illustrate and indicate conformity with the ~~regulations of~~
 24 ~~the board of health and of the state fire marshal. The plans~~
 25 ~~and specifications shall be prepared in accordance with the~~

1 ~~regulations of the board of health of the state of Montana~~
 2 ~~the regulations of the Montana state fire marshal, and the~~
 3 ~~building code promulgated by the state building code council~~
 4 ~~rules promulgated by the department of administration.~~

5 (3) As a service to districts, the superintendent of
 6 public instruction shall ~~may~~ review the plans and
 7 specifications submitted to the ~~board of health department~~
 8 ~~of administration~~ to assist the districts in designing
 9 facilities for optimum utilization."

10 Section 18. Section 75-8207, R.C.M. 1947, is amended
 11 to read as follows:

12 "75-8207. Regulations of board of health. (1) The
 13 state board of health shall adopt regulations prescribing
 14 the requirements for school sites, ~~school buildings,~~
 15 ~~ventilation, heating, lighting, water supply, sewage and~~
 16 ~~waste disposal, and any other matters pertinent to the~~
 17 ~~health and physical wellbeing of the pupils, teachers, and~~
 18 ~~others who frequent schools. Such regulations of the state~~
 19 ~~board of health shall require:~~

20 (1) ~~at least fifteen (15) square feet of floor space~~
 21 ~~and two hundred (200) cubic feet of air space for each pupil~~
 22 ~~to be accommodated in each classroom;~~

23 (2) ~~a system of ventilation which shall be adequate to~~
 24 ~~produce satisfactory conditions of air in all rooms of the~~
 25 ~~building at all times and under all conditions;~~

1 ~~{3}--a-ventilation-system-of--fire--resistant--material~~
2 ~~and-construction;--and~~

3 ~~{4}--a-system--of--lighting--all-parts-of-the-building~~
4 ~~that-will--produce--an--adequate--quality--and--quantity--of~~
5 ~~illumination-at-all-times.~~

6 [2] The state board of health shall furnish to the
7 districts copies of such regulations."

8 Section 19. There is a new R.C.M. section numbered
9 69-2125 that reads as follows:

10 69-2125. Department of administration -- sole
11 authority to promulgate building regulations. No state
12 agency except the department of administration may
13 promulgate building regulations as defined in 69-2105.

14 Section 20. Saving clause. This act does not affect
15 rights and duties that matured, penalties that were
16 incurred, or proceedings that were begun before the
17 effective date of this act.

18 Section 21. Severability. If a part of this act is
19 invalid, all valid parts that are severable from the invalid
20 part remain in effect. If a part of this act is invalid in
21 one or more of its applications, the part remains in effect
22 in all valid applications that are severable from the
23 invalid applications.

24 Section 22. Repealer. Section 69-4117 and 69-5507 are
25 repealed.

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 15, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on February 15 at 9:37 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present.

The following visitors were present: William Penttila, State Fire Marshall Bureau; Mike McGrath, Attorney General's Office; Ron Hetrick, State Fire Marshall Bureau; Bruce Houston, State Fire Marshall Bureau; James Brown, Crossman-Whitney-Griffin, Arch.; David Hagstrom; W. James Kembel, Department of Administration; Delmont C. Thurber, Montana Building Codes Advisory Council; Gene Huntington, OBPP; Willard Johnson; Jack Crosser, Department of Administration; Phil Hauck, Department of Administration; Ellen Blake; Bette Hostad; Andy VanTeylingen; Ray White, Montana County Assessors Association; Creath Tooley; Montana County Assessors Association; Harley Warner, Helena; Al Thelen, Helena; Glen Drake, League of Cities and Towns.

CONSIDERATION OF SENATE BILL 401: Senator Lowe, District 33, Sponsor of Senate Bill 401, stated the bill would put together the building codes, fire regulations and safety under one department, Department of Administration. He stated the bill applies only to public buildings outside the municipalities. Gene Huntington, Office of Budget and Program Planning, testified in support of Senate Bill 401 stating there are 12 different building codes for the state plus whatever the local level chooses. He stated there is a tremendous amount of duplication with several agencies looking at the same building. Jim Kembel, Department of Administration, stated there is conflict between some of the existing codes and Senate Bill 401 would do away with conflicting codes by having one state-wide building code. He stated Senate Bill 401 does provide the right for counties to enforce the codes. He stated people would only have to buy one permit instead of several. Sonny Hanson, Montana Technical Council and Dale Thurber, Montana Building Advisory Council, testified in support of Senate Bill 401.

Mike McGrath, Attorney General's Office, supported the concept of the bill but was opposed to moving the Fire Marshall's Office from the Department of Justice to the Department of Administration. He proposed the following amendment to Senate Bill 401, amend page 12, section 7, line 10, following: "association" insert: "uniform fire

code". Dean Zinnecker, Montana Association of Counties opposed total control by the state with no flexibility at the local level. He stated the definition of county is not included in Senate Bill 401. Mr. Zinnecker proposed amendments to Senate Bill 401 (attached). Harley Warner, Helena City Commissioner, opposed Senate Bill 401. He stated that before the city can enforce adopted building codes they must have approval from the Department of Administration. He stated the State of Montana is assuming control over local government. Al Thelen, City Manager, agreed with Mr. Warner's statements.

CONSIDERATION OF SENATE BILL 404: Senator Boylan, Sponsor of Senate Bill 404, gave a brief resume of the bill. Ray White, Montana Association of Assessors, testified in support of Senate Bill 404 stating County Assessors would like the same concessions allowed to other elected county officials. Creath Tooley, Yellowstone County Assessor, testified in support of Senate Bill 404 stating assessors should have the benefit of meeting annually.

Senator Dunkle moved Senate Bill 404 be given a "Do Pass" recommendation. Senator Peterson seconded the motion. The Chairman called for a roll call vote. Senate Bill 404 went out of committee without recommendation.

ADJOURN: The meeting adjourned at 10:57 A.M.


Senator George McCallum, Chairman

SENATE Local Gov't COMMITTEE

BILL 401 & 404

VISITORS' REGISTER

DATE 2-10-61

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPP
Wm Penttila	State Fire Marshal Bdr.	401	neither	
Mike McGRATH	ATTY GENL	401	"	
Con Nettles	STATE FIRE MANGEMENT BDR	401	"	
Gene Johnston	" " " "	401		
James B. Brown	CROSSMAN-WHITNEY-GRIFFIN, ARCH	401	X	
David E. Hagstrom	self	401	X	
W. James Kembel	Dept Admin	401	X	
Delmont C. Thubert	Mont. Bldg Codes Advisory Council	401	X	
Gene Huntington	OB PIO	401	X	
Willard Jones	Self	401	X	
JACK CROSSEN	DEPT. OF ADMIN	401	X	
Phil Hauska	Dept of Admin	401	X	
Ellen Blake		401	neither	
Bette Fowler	LWR	401	neither	
Andy van Teylingen	Mont. Univ. System	401	X	
Ray White	mont. co. common assn	404	X	
Cluck Tooley	" " " "	404	X	
Harley Warner	CITY OF HELENA	401		
W. Chelan	city of Helena	401	X	
Eda Drake	League of Cities & Towns	401		

NAME: John J. Jones DATE: 2-1-68

ADDRESS: Ch...

PHONE: 442-2007

REPRESENTING WHOM? Mr. Asst. of Co.

APPEARING ON WHICH PROPOSAL: HB 401

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS:

1. Counties should be included in definition

2. "Legislative body" definition should be local
county

3. By 7, Sec 3 thru 6, should be changed to

local codes meet state standards but approved

by state should not be required

4. By 5, Sec 15 thru 18, restricts to 1 unit

By 1 Section 4, no fees authorized for units

NAME: MIKE M'GRATH DATE: 2/15/77

ADDRESS: CAPITOL BUILDING WASHINGTON

PHONE: 2026

REPRESENTING WHOM? ATTY GENL

APPEARING ON WHICH PROPOSAL: SB 401

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: We are concerned regarding the transfer of the Fire Marshall from the Dept. of Justice. However, we do not oppose the bill provided that the arson investigation function of the Fire Marshall be retained within the Dept of Justice. We would suggest an amendment creating an Arson Investigations Bureau w/in Justice and staff that Bureau w/ 3 current members of the Fire Marshall staff who currently investigate Arson

NAME: William Penttila DATE: 2/15/27

ADDRESS: 1409 Helena Ave

PHONE: 449-2050

REPRESENTING WHOM? State Fire Marshal

APPEARING ON WHICH PROPOSAL: SB 401

DO YOU: SUPPORT? AMEND? X OPPOSE?

COMMENTS: I have serious reservations regarding this bill - but am in support of the concept.

The reservations are that movement of the Fire Marshal to the Dept of Adm. will dilute the effectiveness of the present program of attempting to reduce the fire loss we are experiencing in Montana (in excess of 15 million annually)

We propose to amend to keep the arson investigation in the Dept of Justice if at all possible. We hope we can do this with the help of the committee.

We are concerned that the bill will reduce the ability of the Fire Marshal to enforce codes

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 21, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on February 21 at 9:35 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present.

The following visitors were present: Robert R. Johnson, Association of Local Health Departments; Glen Drake, League of Cities and Towns; Steve Brown, Department of Health and Environmental Sciences; Ed Casne, Department of Health and Environmental Sciences.

Senate Bill 401. Senator Dunkle moved Senate Bill 401 be give a "Do Pass" recommendation. Senator Peterson seconded the motion. Motion carried unanimously.

CONSIDERATION OF SENATE BILL 310: Senator Roberts, District 11, Sponsor of Senate Bill 310, stated the bill deals with the authority of the State Department of Health and Environmental Sciences over subdivisions, primarily sewage review authority. Steve Brown, Department of Health and Environmental Sciences, stated this bill would have one state agency responsible for reviewing sewage disposal, solid waste disposal and water supplies. Mr. Brown proposed amendments (attached) to Senate Bill 310. Ed Casne, Department of Health and Environmental Sciences, testified in support of Senate Bill 310 (attached). Bob Johnson, Health Officer, Lewis & Clark County, testified in support of Senate Bill 310. Glen Drake, League of Cities and Towns, supports the bill as presented by Senator Roberts. Mr. Drake supports the local control of minor subdivisions.

Opponents. Glen Drake stated he did not know the effect of amendments proposed by the Department of Health and Environmental Sciences. Mr. Drake was opposed to the Department of Health and Environmental Sciences having control over solid waste disposal. Mr. Drake stated the definition of plat in Senate Bill 310 was different from the definition used in the subdivision act. Mr. Drake felt Senate Bill 310 was approaching the problem inadequately.

Senator Watt moved to strike section 3 of Senate Bill 310 in its entirety. Senator Dunkle seconded the motion

STANDING COMMITTEE REPORT

February 21 19 77

MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 401

Respectfully report as follows: That Senate Bill No. 401

DO PASS

P.A.

The meeting was called to order by Chairman Brand, roll was taken, with Bardanouve and Tower absent.

Dick Hargesheimer distributed his summary to the committee, see attachment #1.

SB 401-Senator Lowe, sponsor--I have been very interested in this bill, and I will sketch it briefly. I have been construction and design all my life, and I have worked with this. Presently, Montana has federal, state and municipal codes that many times conflict and duplicate. This bill attempts to resolve these problems.

(1) The bill provides for one code writing agency at the state level under the Department of Administration - Division of Architecture and Engineering; (2) It requires local government to use state wide building codes. This has been done already for the most part; but with this bill, there will be a uniform building code - plus, it takes state government out of local code enforcement. (He went through the definitions in the bill, and then turned the hearing over to Sonny Hanson)

SONNY HANSON, Montana Technical Council--(Hanson explained the arrangement of the people he had brought to testify -- the first 4 will be speaking on the organization of the bill if passed; the next 4 will speak of the specific importance of the bill)

GENE HUNTINGTON, Office of Budget and Program Planning, Governor's Office--The Governor received a letter requesting that something be done about fixing the building codes; so, we looked at the R.C.M.'s, and the local codes and tried to come up with some way to take care of them. We found support from every agency that these codes needed to be revised. The lack of efficiency and duplication being the worst problem. The service that people were getting was less than to be desired due to the number of agencies involved. We want a more efficient agency, and want to be able to give people better specifications on buildings. The bill addresses the inspection of existing buildings, and the construction of new buildings. We found a number of agencies that had their own specifications. We think this would provide for elimination of some of this. We conceive of a new agency that could act more efficiently. In terms of duplication of effect - we found 12 agencies involved in enforcement of codes and also a number of agencies that make up codes. As far as public service, this increases the state's accountability, so one person can give the OK to build. Relative to conflicts with local government - generally, the state law provides that building codes are a state responsibility; but some cities have their own codes. The State Building Code Council was charged with finding areas of duplication, and together with the Department of Administration, they have been very frustrated by the confusion. Every agency that had regulatory functions to carry out used the state codes to enforce certain things that aren't really necessary. We need to have only one agency writing and enforcing codes. This bill does two things: it provides for more efficient operation of government and improves the service to the public.

DELMONT C. THURBER, Montana Building Codes Advisory Council--Mr. Thurber submitted written testimony -- see attachment #2.

W. JAMES KEMBEL, Chief, Building Codes Administration Bureau, Department of Administration--Mr. Kembel submitted written testimony -- see attachment #3.

JACK CROSSER, Director, Department of Administration--The building codes function is currently assigned to the Department of Administration -- with this bill, it will belong to a division for that specific purpose. We are not trying to diminish any-

thing going on now. The attainment of the present objectives would be facilitated by this bill.

DAVID DAVIDSON, President, Davidson & Kuhr Architects, Great Falls--Mr. Davidson submitted written testimony, see attachment #4.

REP. REX MANUEL--Sonny spoke to me the other day about these codes - I built a motel in Fairfield last year; and some of it had to be put together in modular forms in Butte, and then transported to Fairfield. We spent two weeks running from agency to agency about codes. So the thing finally got done and installed and OK'd, and then when it got to Fairfield, the bottom plumbing had to be done again. I think this would be a good bill.

WILLARD JOHNSON, Architect, Montana Codes Council, Billings--These codes are without direction, and we must put these things under some coordinating agency. It is too immense to even discuss. Without some coordination, we are going nowhere in this state.

FRANK STROEBE, Architect, Director of Building Safety, Billings--We have a good working relationship with our city fire marshal, and when these differences in the codes arise during the plan reviews, we are able to modify those differences; but, if we could review the plans submitted for compliance with one code, we would save a lot of conferences and meetings -- and spend the time more profitably in reviewing the plans. The adoption and administration of codes under one agency would provide a much better situation. If we had questions on interpretation, we could contact one state agency who would unify all of the agencies now involved. By the same token, if we have problems with inspection, we could consult with one state agency. I urge passage.

REP. ESTHER BENGSTEN--I served on the Energy Conservation Subcommittee, and we came up with an energy conservation policy. In that subcommittee, we went through the governor's recommendations, and the Advisory Council's recommendations, and tried to come up with a bill in terms of energy conservation. It became clear that we needed some coordination in terms of codes. The Natural Resources Committee urges that you pass this bill. I highly recommend that you not turn this down as it is the only bill in this session that deals with the building codes. I urge passage.

SONNY HANSON--This bill would establish a new division in the Department of Administration - and I feel that the Fire Marshal section is a very important part of the bill.

BILL OLSON, Montana Contractors Association--We support this from the standpoint of new construction. We urge passage.

LARRY MOORE, Construction Industry Council--We support. Thank you.

ROD WILSON, Billings Chamber of Commerce--We are concerned about how much it costs right now to build a home. The cost of improving a lot in Billings has gone up 80% in the last 5 years. The cost of building a new home is going up about \$560 each month. We urge passage in an effort to help this situation.

KERMIT MUELLER, Contractor, Helena--At the time that we asked that this be started, everybody on the council voted for this bill. I urge support from my position as a builder. We have too many codes to follow, and this would help.

March 17, 1977

MIKE McGRATH, Assistant Attorney General--I don't appear as a proponent or an opponent. If you recommend passage, we have amendments relative to the Fire Marshal Bureau. (see attachment #5) We are concerned about arson investigation remaining in the Department of Justice.

OPPONENTS

AL SAMPSON, Montana State Firemens' Association--We are concerned about the Fire Marshal's office. The fire code is a very small part of that office, and we see no reason why one man couldn't be put into the Department of Administration and leave the Fire Marshal alone. He is doing a good job.

HILTON ODEGARD, Montana Fire Prevention Association, Great Falls Fire Marshal--The intent of this bill is great, there is no question about that - a central code committee would be great; but, it will have to be a code specified by the state. The only interest the state will have is in farm buildings, so what will it do for the cities? There will be federal agencies, state agencies, plus the local agencies. If they aren't going to control the planning or inspection in cities, then where will the slow down come? Anybody is going to have to have the state and federal inspectors look at the plans still. I feel it does not accomplish what it intended. Until all agencies jointly agree that these codes would be adhered to, the bill has no purpose. The only building it applies to are public, so private individuals still have no relief. With this, the fire marshal would be nothing more than a figure head. It splits his whole team up, and takes all of his control away, yet the fire marshal's role is supposedly the greatest. (see attachment #6 for Mr. Odegard's additional testimony)

LESTER JOHNSON, Montana Arson Investigators Chapter--We unanimously oppose this. We are opposed to splitting the fire marshal's office. We do need strong arson investigating teams. The fire marshal needs enforcement powers, and this is why we oppose.

BOB KELLY, Fire Chiefs' Association, Missoula Fire Chief--We recognize the merits of this, as it gets the officials under one department. But, the state fire marshal's duties and activities only comprise 15 - 20% of his activities. The rest of his work has nothing to do with building construction. We feel these other duties can be better taken care of under the Department of Justice. We have suggested that the Fire Marshal appoint one of his people to the Department of Administration, so he can speed up the process of code interpretation, and apply himself to building codes; but leave the arson investigation under the Department of Justice. We are also concerned that the Life Safety Code, FPA 101 will be eliminated. When they speak of conflicts, it must be with 101, because the major cities operate under Uniform Codes which dovetail. USC and 101 have been adopted by most major cities in the state. If 101 were eliminated, we must oppose. We can't understand why they don't want to work with 101. It is used nationwide. We have 35 members on the board that makes the regulations. If SB 401 is adopted, at least study it for two years for more input from the fire service people. The Building Code Council only has one man on it that has anything to do with fire service.

LEE LEWIS, Bozeman Fire Service--Our department, as a whole, is opposed.

RAY BLEHM, Montana State Firemens' Association--We aren't opposed to improvement of the codes. We just don't want the fire service bureaus fragmented. The US

leads the world by 2 to 1 in loss of life to fire. The Fire Marshal deals with many codes that have nothing to do with building codes. We don't want to see him become a figure head building inspector. What about public education - will we carry these on and get the funds? Funds will be sent to too many places. Code enforcement is third priority in fire service by the recommendation of the national council. We recommend at least amending this bill.

MAIT KUNNARY, Helena Fire Marshal, Montana Fire Prevention Association--We very seldom inspect a building while it is being built, and so with SB 401, it would destroy most of the other programs the Fire Marshal is carrying out. We oppose.

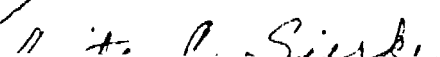
SENATOR LOWE--It seems that the only conflict we have is with the Fire Marshal. There is no intent to change the duties. What we do propose is that their department could function better under this code department - we did amend the bill so that arson investigation remains with the Department of Justice (see attachment #1). This is 15% of his work. He will still have input. The enforcement is 95% gone with the local county attorneys and the local law enforcement agencies. We are looking at all buildings with this in incorporated cities, because they normally are concerned with utilities. This bill would include public buildings outside of cities and all buildings inside of cities. 101 would certainly be included. Arson would be kept with the Attorney General. Codes would be under the Department of Administration, so the builder knows what he is looking at. The Fire Marshal will still have his operation and subdivision as is under a different department.

O'CONNELL--I have worked for public safety the whole time I have been in public office. But isn't it possible to delete the Fire Marshal from this bill? They aren't into building codes. HANSON--The fire codes and Life Safety Code are essentially building codes. There have been references before to the high rise dorm in Bozeman - (he explained the conflicts experienced with this building). I would rather live with the Uniform Building Code than the Life Safety Code. O'CONNELL--It was suggested that a member of his office could be put in administration, and leave the Fire Marshal where he is. HANSON--If the Fire Marshal weren't to stay in the Attorney General's office, and if Greely wants to accept him, he can stay. RYAN--You say 18 states have this? THURBER--Yes. RYAN--Do you mean as far as building codes or arson investigation? THURBER--18 states have begun programs similar. In the last three weeks it has become apparent that most other states are at least considering this same thing. RYAN--Have they been in this long enough to give us any counsel on this? THURBER--Oregon finished theirs in 1973. Rhode Island will have everything under a single code situation as of July 1, 1977. ROBBINS--Are you aware that we had a two year study of the fire laws? CROSSER--No, I was not. ROBBINS--As long as it applied to the Fire Marshal's office, I am surprised that no one dealing with this bill came to us during the committee meetings or anything. TURNER--We will have to consider the buildings built before the 1937 earthquake. You have codes, but do you have compliance. HANSON--A lot of the buildings here were not built with earthquake requirements. The Securities Building took \$150,000 to bring up to code. The liability of contractors and architects is outrageous, so we are very concerned about code aspects. Our legal exposure is way out of line. FEDA--I can see the building codes, but the Fire Marshal I can't see. Doesn't the Insurance Commission work closely with the Fire Marshal? PENTILLA--Yes, we do. It is only a statutory requirement though. When we discussed this code business with the Legislative Council, it was my impression that the Fire Marshal was not being moved. We knew the codes had to be dealt with, but that's why I never brought this up in the interim committee study of the fire laws. After the last meeting the initial draft of the bill came out. I didn't get to go to the council meeting, but told some people on the council that I didn't want to see this happen. KROPP--Relative to these assumptions on the fiscal note -

pertaining to electrical inspections - does that mean this would be a different inspection? LOWE-Each city has to have its code approved by the state; and part of this approval is contingent upon proper and uniform inspection. What this fiscal note says is that since they have an approved code, no state inspectors will go in. MEYER-If their code isn't up to par with the state, who will inspect, and how much will it cost. LOWE-The state would. If the city chooses not to have a uniform code, then the state will continue to inspect. LIEN-Do you see any problem with leaving the Fire Marshal where he is, and putting a representative in the Department of Administration. HANSON-As long as you take away his authority to make and enforce codes which would affect the building codes. As long as we can have uniformity of building codes. O'CONNELL-How does the Building Codes Bureau receive their funding? LOWE-Under the Department of Administration whether this is under another division or one of its own. KEMBLE-We don't inspect buildings per say. O'CONNELL-What about fees? HUNTINGTON-If the city supports it's own laws, then the state has no business there. ROBBINS-What about the Attorney General? McGRATH-He wants the arson investigation; and intends to increase support for County Attorneys as far as that type of investigation. If this bill passes though, we have no objection. MEYER-Wouldn't you have to add staff for these inspections? CROSSER-I think the staff would be the same as with the present situation. I don't really know. If cities refuse to maintain their codes, we might have to. FEDA-What did you have on your mind when you had the bill drafted? LOWE-I didn't envision any additional people because the law requires that the state inspect, but with this, the Uniform Code, and cities doing their own inspections, the state wouldn't have to send a man. I feel sure there would probably be a decrease. RYAN-In looking at the fiscal attachment, why is there a difference in staffing between eastern and western Montana? KEMBLE-Elevator inspectors would not be included in the central area. BRAND-You have a fire inspector in each area subject to the division administrator, and the Fire Marshal over in a corner where you will never hear from him. KEMBLE-The thought was to get everyone working in the same line. The law doesn't set the organization, and it can be changed after passage. BRAND-I feel the Fire Marshal should be somewhere between the two of them. KEMBLE-He would be the advisor. LIEN-Was your intent to get collective input from electrical and plumbing inspectors? KEMBLE-Yes. BRAND-According to the fiscal note, you will need another attorney, what for? CROSSER-We have one attorney with the resource and legal division. BRAND-Do these people have an attorney now? CROSSER-They do use the Attorney General's office, and the building code people use our counsel. The regulatory boards - I'm not sure whether they have one or not. BRAND-How much money are we talking about? KEMBLE-It is included in the figures. BRAND-There's no line item. KEMBLE-The organization transfer would be handled through legal, clerical, and accounting; and the budget for the meshing would be for those groups. BRAND-Item 4 says it will take several years for this. KEMBLE-Two years. BRAND-Most buildings have federal funding of some kind; don't you think you will have to comply with federal law in this? HANSON-It depends upon the source of the funds, and the building use. Any federal law always takes precedent over state or municipal law; but, they pretty much go along with ours. BRAND-With federal codes you will still have delays. HANSON-Yes, but we are speaking more of local residents, and public buildings rather than federal buildings. LIEN-How about school buildings? HANSON-State codes. The only time federal codes would be involved would be in impacted areas. KELLY-It is my understanding that if 401 is adopted, the state Board of Health will still have to work with 101.

HEARING CLOSED - MEETING ADJOURNED

10:15 a.m.


Joe Brand, Chairman


EXECUTIVE SESSION ONLY

Chairman Brand called the meeting to order at 9:00 a.m., roll call was taken, with Bardanouve being absent.

SB 120-Dick Hargesheimer passed out amendments which had been agreed upon by Senator Story and Bob Lohn. "The first two amend the title, then everything after the enacting clause has been stricken. The legislative poll has no weight unless it is used in court. The poll cannot change the rule. What this does is change the bill considerably as far as the authority of the legislature."

LIEN-What if they only had 10 responses, and 8 of them were against it? DICK-You have to have the majority of members of both houses. MULAR-There might be 15 - 20 people sitting in committee knowing what the intent is, and then the code committee - which wouldn't know the original intent - being able to change things. Shouldn't we maybe mandate that some percentage of the two houses agree? TURNER-There was something in a couple of sessions ago - a rule that the Secretary of State had to write a paragraph about the intent of the bill. MULAR-We are giving the Administrative Code Committee the inherent power to poll us. TOWER-This would give them some leverage in court. MULAR-Most of the challenges have been instituted by the code committee. LIEN-I feel the code committee is the strongest body as far as rules. MULAR-If there were 40 protests in both houses to any rule, it would mandate a poll. BRAND-But I don't ever know that these things have been done until I read about it in the paper.

Feda moved to adopt the amendments, motion carried. Robbins moved to send the bill out AS AMENDED BE CONCURRED IN, the motion was carried unanimously. Tower will carry the bill on the floor.

SB 162-Brand read the amendments, Meyer moved the amendments, motion carried unanimously. Feda moved the bill AS AMENDED BE CONCURRED IN, motion carried unanimously. Feda will carry on the floor.

SB 265-Turner moved the bill BE CONCURRED IN, motion carried unanimously. Turner will carry the bill on the floor.

SB 336-Brand read the amendments, and a letter from Larry Nachtsheim concerning the bill. Mular moved the amendments, motion carried unanimously. Feda moved the bill AS AMENDED BE CONCURRED IN, motion carried unanimously. Mular will carry on the floor.

SB 401-Feda moved NOT BE CONCURRED IN. Brand asked that the amendments be put in in committee, whether the bill went out do pass or not. Mular moved the amendments by the firefighters be put into the bill. (see attachment #2) SAMPSON-The only place that building codes will be reviewed is the Department of Administration. HANSON-I disagree. This does do as Al said as far as state level, but if there is a conflict, the Fire Marshal can still promulgate his own regulations. MULAR-Does the breach come on the lower levels? HANSON-Yes and no - because cities, the state and the Fire Marshal can still promulgate rules. FEDA-Don't federal laws come into this too? LIEN-If your amendments are accepted, can you kill the bill? (ha-ha-ha-ha-ha) Mular moved the amendments, the motion carried with Lien and Kropp voting no. Robbins presented another amendment from the Helena City Manager (see attachment #3), and moved that the amendment be accepted, motion carried with O'Connell voting no. Feda moved the bill NOT BE CONCURRED IN, Mular made a substitute motion that the bill go out AS AMENDED BE CONCURRED IN, motion failed on a roll call vote 6 - 8 with Brand, Kanduch, Ryan, Feda, Kropp, Smith, Tower, and Turner voting no. Feda moved

March 23, 1977

the bill AS AMENDED NOT BE CONCURRED IN, a motion to reverse the roll call was carried, and the motion passed.

SB 440-Robbins moved to include the proposed amendments by the AG and Senator Fasbender be included, O'Connell proposed a substitute motion that the amendments not be adopted, the substitute motion carried with Robbins and Mular voting no. O'Connell moved the bill NOT BE CONCURRED IN, the motion carried with Robbins and Mular voting no.

MEETING ADJOURNED - 9:45 a.m.


Joe Brand, Chairman


Anita C. Sierke, Secretary

SENATE BILL NO. 401

INTRODUCED BY LOWE, FLYNN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS REGARDING BUILDING CODES; PROVIDING FOR PROMULGATION OF CODES BY THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTIONS 66-2416, 66-2417, 66-2427, 66-2802, 66-2805.1, 69-2105, 69-2111, 69-2112, 69-2124, 75-8206, 75-8207, ~~82-1201, 82-1202, 82-1202.1, 82-1208, 82-1209, 82-1229, 82-1232~~, AND 82A-1607, R.C.M. 1947; AND REPEALING SECTIONS 69-4117 AND 69-5507, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-2105, R.C.M. 1947, is amended to read as follows:

"69-2105. Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Municipality" means any incorporated city or town and its jurisdictional area as defined by subsection (12) of this section.

(2) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof enacted or adopted by the state or any municipality, including departments, boards,

bureaus, commissions, or other agencies of the state or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair inspection, or use of buildings and installation of equipment in buildings. The term does not include zoning ordinances.

(3) "Department" means the department of administration provided for in Title 82A, chapter 2.

(4) "Local building department" means the agency or agencies of any municipality charged with the administration, supervision, or enforcement of building regulations, approval of plans, inspection of buildings, or the issuance of permits, licenses, certificates and similar documents, prescribed or required by state or local building regulations.

(5) "State agency" means any state officer, department, board, bureau, commission, or other agency of this state.

(6) "Building" means a combination of any materials, whether mobile, portable, or fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof."

(7) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment, elevators, dumb-waiters, escalators, and other mechanical

1 additions or installations.

2 (8) "Construction" means the original construction,
3 and equipment of buildings, and requirements or standards
4 relating to or affecting materials used including provisions
5 for safety and sanitary conditions.

6 (9) "Owner" means the owner or owners of the premises
7 or lesser estate, a mortgagee or vendee in possession,
8 assignee of rents, receiver, executor, trustee, lessee or
9 other person, firm, or corporation, in control of a
10 building.

11 (10) "Local legislative body" means the council or
12 commission charged with governing the municipality.

13 (11) "State building code" means the state building
14 code provided for in section 69-2111 or any portion of the
15 code of limited application, and any of its modifications or
16 amendments.

17 (12) "Municipal jurisdictional area" means the area
18 within the limits of an incorporated municipality unless the
19 area is extended at the written request of a municipality.
20 Upon request the council may approve extension of the
21 jurisdictional area to include: (a) all or part of the area
22 within ~~four-and-one-half~~ $\{4\} 1/2\}$ miles of the corporate
23 limits of a municipality; (b) all of any platted subdivision
24 which is partially within ~~four-and-one-half~~ $\{4\} 1/2\}$ miles of
25 the corporate limits of a municipality; and (c) all of any

1 zoning district adopted pursuant to Title 16, chapter 41 or
2 47, ~~R.C.M.-1947~~, which is partially within ~~four-and-one-half~~
3 $\{4\} 1/2\}$ miles of the corporate limits of a municipality.
4 Distances shall be measured in a straight line in a
5 horizontal plane.

6 (13) "Public place" means any place which a
7 municipality or state maintains for the use of the public,
8 or a place where the public has a right to go and be.

9 ~~\{14\} "Mobile home" means anything defined as a mobile~~
10 ~~home in the edition of National Fire Protection Association~~
11 ~~\{NFPA\} No. 501B or American National Standards Institute~~
12 ~~\{ANSI\} A119.1 most recently adopted by the state in~~
13 ~~accordance with section 69-2122.~~

14 ~~\{15\}~~ $\{14\}$ "Recreational vehicle" means anything defined
15 as a recreational vehicle in the edition of NFPA No. 501C or
16 ANSI A119.2 most recently adopted by the state in accordance
17 with section 69-2122."

18 Section 2. Section 69-2111, R.C.M. 1947, is amended to
19 read as follows:

20 "69-2111. Adoption of rules by department. (1) The
21 department shall adopt by reference nationally recognized
22 building codes in whole or in part, amend and repeal rules
23 relating to the construction of all buildings or classes of
24 buildings or the installation of equipment in those
25 buildings, and may by rule prescribe standards or

requirements for materials to be used in buildings including provisions dealing with safety, sanitation and conservation of energy. The rules, when adopted as provided in this chapter, constitute the "state building code" and shall be acceptable for the buildings to which it is applicable.

(2) The department may hold hearings relating to the administration of this act in accordance with the Montana Administrative Procedure Act.

(3) Except as provided in subsection (4) of this section, no rule and no amendment or repeal of the state building code shall take effect until after a public hearing by the department.

(4) If a hearing has been held by the department of justice with respect to its duties contained in Title 82, chapter 12, the board of plumbers, the department of health and environmental sciences, board of warm air heating, ventilation, and air conditioning, or state electrical board, on a proposed rule relating to building and equipment standards in their respective fields, a public hearing by the department is not required. The proposed rule is effective upon approval of the department and filing with the secretary of state as a part of the state building code.

~~(5) If a rule relating to building or equipment standards is proposed by the department of justice with respect to its duties contained in Title 82, chapter 12,~~

~~board of plumbers, department of health and environmental sciences, board of warm air heating, ventilation, and air conditioning, or state electrical board which conflicts with the state building code, the department shall modify the proposed rule or the state building code to resolve the conflict after consultation with the state agencies affected.~~

Section 3. Section 69-2112, R.C.M. 1947, is amended to read as follows:

"69-2112. Municipal building codes -- applicability of state code. (1) The local legislative body of a municipality or county may adopt a municipal building code by ordinance to apply to the municipal or county jurisdictional area. ~~A municipal building code shall require standards equal to those of the state building code or higher standards. A municipal building code must cover all general areas included in the state building codes. A municipal or county building code may include only codes adopted by the department AND THE STATE FIRE MARSHAL.~~

(2) If a municipality or county does not adopt a municipal building code as provided in subsection (1) of this section, the state building code applies within the municipal or county jurisdictional area and the state will enforce the code in these areas.

(3) ~~The department shall determine whether a municipal~~

1 ~~buildings code has standards equal to those of the state~~
 2 ~~building code or higher standards and notify municipalities~~
 3 ~~immediately if any municipal standards are below the state~~
 4 ~~standards. A county or municipality may not enforce a~~
 5 ~~building code unless the code adopted and a plan for~~
 6 ~~enforcement of the code have been approved by the department~~
 7 ~~HAS BEEN APPROVED BY THE DEPARTMENT AND A PLAN FOR THE~~
 8 ~~ENFORCEMENT OF THE CODE HAS BEEN FILED WITH THE DEPARTMENT~~
 9 ~~AND THE STATE FIRE MARSHAL AND A PLAN FOR ENFORCEMENT OF THE~~
 10 ~~CODE HAVE BEEN APPROVED BY FILED WITH THE DEPARTMENT.~~

11 (4) ~~if a municipal code is adopted, a copy of the code~~
 12 ~~and any amendments to the code shall be filed with the~~
 13 ~~department. The department shall set forth rules and~~
 14 ~~standards governing the certification of municipal and~~
 15 ~~county building code programs as required in subsection~~
 16 ~~(3).~~

17 Section 4. Section 69-2124, R.C.M. 1947, is amended to
 18 read as follows:

19 "69-2124. Fees. The department shall establish a
 20 schedule of fees for ~~the inspection of plans and~~
 21 ~~specifications for mobile homes or recreational vehicles and~~
 22 ~~for the inspection of individual units and may collect fees~~
 23 ~~for the inspection of plans and specifications and for the~~
 24 ~~inspection of buildings, factory-built buildings,~~
 25 ~~recreational vehicles, tramways, or any other facility or~~

1 ~~structure.~~ The department may utilize independent testing
 2 laboratories or the agencies of other states to determine if
 3 approved models of ~~mobile homes~~ factory-built buildings or
 4 recreational vehicles are being constructed in accordance
 5 with the approved plans and specifications for said models."

6 Section 5. Section 82-1201, R.C.M. 1947, is amended to
 7 read as follows:

8 "82-1201. Creation of office of state fire ~~fire~~
 9 marshal ~~bureau~~ --fire-prevention-advisory-commission.
 10 (1) ~~There is an office of state a fire marshal bureau~~
 11 ~~which is under the supervision and control of the~~
 12 ~~commissioner of insurance within the department of~~
 13 ~~administration.~~

14 (2) ~~The state fire marshal shall be appointed by the~~
 15 ~~commissioner of insurance and shall serve at his pleasure~~
 16 ~~employed by the department of administration.~~

17 (3) ~~A person appointed employed as state fire marshal~~
 18 ~~shall:~~

19 (a) ~~have at least ten (10) years of progressively~~
 20 ~~responsible experience in fire protection; or~~

21 (b) ~~a degree in engineering from a recognized~~
 22 ~~institution of higher education and two (2) years~~
 23 ~~experience in fire protection; or~~

24 (c) ~~a degree from a recognized institution of higher~~
 25 ~~education in fire protection engineering or fire protection~~

1 technology

2 {4}--Not--later--than--thirty--{30}--days--after--this--act
3 becomes--effective--the--commissioner--of--insurance--shall
4 appoint--a--fire--prevention--advisory--commission--composed--of
5 the--following--members:

6 {a}--One--person--representing--the--fire--insurance
7 industry--whose--initial--term--shall--be--for--one--{1}--year;

8 {b}--One--person--representing--industry--whose--initial
9 term--shall--be--for--one--{1}--year;

10 {c}--One--person--representing--full--time--paid--fire
11 departments--whose--initial--term--shall--be--for--two--{2}--years;

12 {d}--One--person--representing--volunteer--fire--departments
13 whose--initial--term--shall--be--for--two--{2}--years;

14 {e}--One--person--representing--architects--of--the--state
15 whose--initial--term--shall--be--for--three--{3}--years;

16 {f}--One--person--representing--the--public--whose--initial
17 term--shall--be--for--four--{4}--years;

18 {a}--The--commissioner--of--insurance;

19 After--termination--of--the--initial--term--all--members
20 shall--be--appointed--for--four--{4}--year--terms--Appointed
21 members--of--the--commission--shall--be--reimbursed--for--meetings
22 at--the--rate--of--twenty--dollars--{20}--per--day--plus--actual
23 expenses--including--mileage--food--and--lodging--The
24 commissioner--of--insurance--shall--serve--as--chairman--and--the
25 state--fire--marshal--shall--serve--as--secretary--of--the

1 commissions"

2 Section--6--Section--82--1202--R&M--1947--is--amended--to
3 read--as--follows:

4 "82--1202--Powers--of--the--state--fire--marshal--The--state
5 fire--marshal--shall:

6 {1}--Make--at--least--one--inspection--during--every--year--of
7 each--state--institution--and--submit--a--copy--of--the--report--to
8 the--state--department--of--institutions--with--recommendations--in
9 regard--to--fire--prevention--fire--protection--and--to--the--public
10 safety;

11 {2}--Make--at--least--one--inspection--during--every--year--of
12 each--unit--of--the--Montana--university--system--and--submit--a
13 copy--of--the--report--to--the--executive--secretary--of--the
14 university--system--with--recommendations--in--regard--to--fire
15 prevention--fire--protection--and--to--the--public--safety;

16 {3}--Inspect--public--business--or--industrial--buildings
17 and--require--conformance--to--law--or--rules--promulgated--under
18 the--provisions--of--this--act;

19 {4}--Do--all--things--necessary--and--convenient--for
20 carrying--into--effect--the--fire--prevention--laws--of--this--state
21 governing--this--act--and--may--adopt--necessary--rules--for
22 safeguarding--lives--and--property--from--the--hazards--of--fire--and
23 explosion--Rules--shall--be--adopted--as--prescribed--in--the
24 "Montana--Administrative--Procedure--Act"--If--fire--prevention
25 rules--are--violated--the--fire--marshal--may--maintain--an--action

1 to enjoin the use of all or a portion of a building or
2 facility or restrain a specific activity, until there is
3 compliance with the rules.

4 {5} Rules relating to building and equipment standards
5 covered by the state or a municipal building code are
6 effective after approval by the department of administration
7 and filing with the secretary of state.

8 Section 7, Section 82-1202, R.C.M., 1947, is amended
9 to read as follows:

10 "82-1202, Rules promulgated by state fire marshal
11 adoption of other standards providing for licensing
12 providing for a penalty for violation. (1) Rules
13 promulgated by the state fire marshal by authority of
14 section 82-1202, R.C.M., 1947, shall be reasonable and
15 calculated to effect the purposes of this act. They shall
16 include but not be limited to requirements for design,
17 construction, installation, operation, storage, handling,
18 maintenance or use of the following: structural requirements
19 for various types of construction; building restrictions
20 within congested districts; exit facilities from structures;
21 fire alarm systems and fire extinguishing systems; fire
22 emergency drills; flue and chimney construction; heating
23 devices; electrical wiring and equipment; air conditioning;
24 ventilating and other duct systems; refrigeration systems;
25 flammable liquids, oil and gas wells; application of

1 flammable finishes; explosives; acetylene; liquefied
2 petroleum gas and similar products; calcium carbide and
3 acetylene generators; flammable motion picture film;
4 combustible fibres; hazardous chemicals; rubbish; open flame
5 devices; parking of vehicles; dust explosions; lightning
6 protection; and other special fire hazards.

7 {2} If rules relate to building and equipment
8 standards covered by the state or a municipal building code,
9 the rules are effective upon approval of the department of
10 administration and filing with the secretary of state. The
11 rules shall be promulgated by the department of
12 administration.

13 {3} Standards of the National Fire Protection
14 Association, UNIFORM FIRE PREVENTION CODE, United States
15 Bureau of Standards, and American Insurance Association
16 Standards may be adopted in whole or in part by reference.

17 {4} A natural person must obtain a certificate of
18 registration from the state fire marshal prior to servicing
19 or installing of fire extinguishers, fire alarm systems or
20 fire extinguishing systems. A person or firm must obtain
21 from the fire marshal a permit to sell or a license to
22 install fire extinguishers, fire alarm systems or fire
23 extinguishing systems prior to engaging in such business.

24 {a} Applications for licenses, permits or
25 certificates shall be made on a form prescribed by the

1 state fire marshal. The fire marshal shall issue a license
2 to an applicant who submits satisfactory proof that he is
3 properly equipped and staffed to provide the services to be
4 licensed, and who pays the required fees. The fire marshal
5 shall issue a certificate of registration to an applicant
6 who scores a passing grade on an examination devised by the
7 fire marshal and who pays the required fees. The fire
8 marshal shall issue a sales permit to an applicant who
9 submits the information required by the fire marshal on the
10 application form who submits satisfactory proof that he
11 deals only in equipment that meets the standards and
12 regulations of the state fire marshal and who pays the
13 required fees.

14 (b) The state fire marshal may conduct inspections,
15 examinations or hearings prior to the issuance of licenses,
16 permits or certificates. The state fire marshal may revoke,
17 suspend or refuse to issue a license, permit or certificate
18 for violation of the provisions of this chapter or any rules
19 and regulations promulgated by the fire marshal under
20 applicable laws.

21 (c) The state fire marshal or his representative shall
22 charge a fee, not to exceed a total of twenty-five dollars
23 (\$25) for the inspection and issuance of licenses, permits
24 and certificates.

25 (d) All fees collected under this section shall be

1 paid into the general fund.

2 (5) Any person violating any rule made under the
3 provisions of this section shall be guilty of a
4 misdemeanor.

5 Section 8, Section 82-1208, R.C.M. 1947, is amended to
6 read as follows:

7 "82-1208. Special deputy fire marshals acting fire
8 marshal fire marshal's employees (1) In an emergency
9 or during the absence or disability of the state fire
10 marshal, the attorney general, director of the department of
11 administration may appoint an acting fire marshal who shall
12 perform the duties of the officer or any duty which may be
13 assigned to him; such appointment to cease when the
14 necessity therefor has been relieved.

15 (2) The state fire marshal may appoint special deputy
16 state fire marshals throughout the state and define their
17 duties. When performing these duties or attending a training
18 course conducted by the state fire marshal, special deputy
19 fire marshals may be paid at a rate not to exceed forty
20 dollars (\$40) per day plus per diem allowance for expenses
21 and mileage at the same rates specified for state employees.

22 (3) The fire marshal may appoint assistants and
23 clerical employees to perform duties as specified by the
24 marshal to assist in carrying out the duties assigned him by
25 laws.

1 Section 9. Section 82-1229, R.C.M. 1947, is amended to
2 read as follows:

3 "82-1229. Annual reports to commissioner of insurance
4 ~~the department of administration. The state fire marshal~~
5 ~~shall make an annual report to the commissioner of insurance~~
6 ~~department of administration, containing a detailed~~
7 ~~statement of his official action and the transactions of his~~
8 ~~department bureau. The commissioner of insurance director~~
9 ~~shall, in turn, submit said report to the governor of the~~
10 ~~state with such recommendations and comments thereon as he~~
11 ~~may deem consider necessary."~~

12 Section 10. Section 82-1232, R.C.M. 1947, is amended
13 to read as follows:

14 "82-1232. Powers of commissioner of insurance
15 ~~department of administration. The powers and authority~~
16 ~~granted by this act to the state fire marshal are also~~
17 ~~vested in the commissioner of insurance director of the~~
18 ~~department of administration."~~

19 Section 5. Section 66-2416, R.C.M. 1947, is amended to
20 read as follows:

21 "66-2416. Minimum standards -- state plumbing code --
22 fee for copy of code. (1) The ~~board~~ department of
23 administration shall by rule prescribe minimum standards
24 which are uniform and which are thereafter effective for all
25 plumbing installations or maintenance, except where exempt

1 by section 66-2426. Upon approval of the department of
2 administration, department of health and environmental
3 sciences and the attorney general, and upon publication, the
4 rules become the state plumbing code and have the force of
5 laws. A copy of the code shall be supplied to each person
6 licensed under sections 66-2401 through 66-2411, or any
7 other interested person, for an amount equal to the actual
8 current cost of the code plus postage.

9 (2) Rules relating to building and equipment standards
10 covered by the state or a municipal building code are
11 effective after approval by the department of administration
12 and filing with the secretary of state."

13 Section 6. Section 66-2417, R.C.M. 1947, is amended to
14 read as follows:

15 "66-2417. District court -- jurisdiction --
16 restraining orders. The district court of any county has
17 jurisdiction in equity, on application of the ~~board or the~~
18 ~~department of health and environmental sciences~~ department
19 of administration, to enforce this act and to restrain from
20 connection any new plumbing installations, on finding, after
21 hearing, that the plumbing is inferior to the standards of
22 the state plumbing code."

23 Section 7. Section 66-2427, R.C.M. 1947, is amended to
24 read as follows:

25 "66-2427. Permit fee -- payment -- penalties. (1) It

1 is unlawful for any person to engage in the business, trade,
2 or work having to do with the installation, removal,
3 alteration, or repair of plumbing and drainage systems or
4 parts thereof without first obtaining a permit from the
5 ~~board-of-plumbers~~ department of administration.

6 A separate permit shall be obtained for each building
7 or structure.

8 No person may allow any other person to do or cause to
9 be done any work under a permit secured by the permittee
10 except persons in his employ.

11 (2) No permit is required for any minor replacement or
12 repair work, the performance of which does not have a
13 significant potential for creating a condition hazardous to
14 public health and safety. No permit is required where the
15 installation is exempt under the provisions of ~~section~~
16 66-2426 or 66-2401. Nothing contained in this act shall
17 prohibit the owner of residential property from making an
18 installation for all sanitary plumbing and potable water
19 supply piping without a permit providing he does the work
20 himself. The provisions of this act do not apply to
21 regularly employed maintenance personnel doing maintenance
22 work on the business premises of their employer unless work
23 is subject to the permit provisions of this act.

24 (3) Persons required by this section to apply for a
25 permit shall make application on forms provided by the ~~board~~

1 ~~department of administration~~ or authorized representative.
2 He shall give a description of the character of the work
3 proposed to be done, and the location, ownership, occupancy
4 and use of the premises in connection therewith. The ~~board~~
5 ~~of-plumbers~~ department of administration or its authorized
6 representative may require sketches, specifications or
7 drawings and such other information it deems necessary in
8 order to determine the scope of the work contemplated.

9 If the ~~board~~ department of administration determines
10 that the sketches, specifications, drawings, descriptions
11 and information furnished by the applicant are in compliance
12 with the state plumbing code, it shall issue the permit
13 applied for upon payment of the required fee as established
14 by the ~~board~~ department of administration.

15 (4) Any person who commences any work for which a
16 permit is required without first obtaining a permit shall,
17 if subsequently permitted to obtain a permit, pay double the
18 permit fee for the work, except that this provision does not
19 apply to emergency work when it is proved to the
20 satisfaction of the ~~board-of-plumbers~~ department of
21 administration or its authorized representative that the
22 work was urgently necessary and that it was not practical to
23 obtain a permit before the commencement of the work. In all
24 such cases, a permit shall be obtained as soon as it is
25 practical to do so, and if there is unreasonable delay in

1 applying for the permit, a double fee shall be charged.

2 For the purpose of this section, a sanitary plumbing
3 outlet on or to which a plumbing fixture or appliance may be
4 set or attached shall be construed to be a fixture. Fees
5 for reconnection and retest of plumbing systems in relocated
6 buildings shall be based on the number of plumbing fixtures,
7 gas systems, water heaters, and the like involved.

8 When a permit has been obtained to connect an existing
9 building or existing work to the public sewer or to connect
10 to a new private disposal facility, backfilling of private
11 sewage disposal facilities abandoned consequent to the
12 connection is included in the permit.

13 The ~~board-of-plumbers~~ department of administration
14 shall establish permit fees in accordance with the Montana
15 Administrative Procedure Act and the fees shall be deposited
16 to the earmarked revenue fund of the ~~board-of-plumbers~~
17 department of administration for use in the administration
18 and enforcement of this act and the Montana state plumbing
19 code.

20 (5) All plumbing and drainage systems may be inspected
21 by the ~~board-of-plumbers~~ department of administration or
22 their authorized representative to insure compliance with
23 the requirements of the state plumbing code.

24 (6) It is the duty of the person doing work authorized
25 by the permit to notify the board department of

1 administration orally or in writing, that the work is ready
2 for inspection. The notification shall be given not less
3 than ~~twenty-four~~ {24} hours before the work is to be
4 inspected.

5 It is the duty of the person doing the work authorized
6 by the permit to ensure that the work performed before
7 notification and after notification pending inspection
8 complies with the state plumbing code.

9 (7) Whenever any work is being done contrary to the
10 provisions of the state plumbing code, the board department
11 of administration or its authorized representative may,
12 after a hearing conducted under the provisions of the
13 Montana Administrative Procedure Act, order work stopped by
14 notice in writing served on any person engaged in the work.

15 (8) The board department of administration may suspend
16 or revoke a permit, whenever it is issued in error or on the
17 basis of incorrect information supplied, or work performed
18 thereunder is in violation of any of the provisions of Title
19 66, chapter 24~~7~~-R~~6~~-M~~1~~-1947."

20 Section 8. Section 66-2802, R.C.M. 1947, is amended to
21 read as follows:

22 "66-2802. Purpose. (1) The purpose of this act is to
23 protect the health and safety of the people of this state
24 from the danger of electrically caused shocks, fires, and
25 explosions; to protect property from the hazard of

1 electrically caused fires and explosions; to establish a
 2 procedure for determining where and by whom electrical
 3 installations are to be made; to assure the public that
 4 persons making electrical installations are qualified; and
 5 to insure that the electrical installations and electrical
 6 products made and sold in this state meet minimum safety
 7 standards. All installations in this state of wires and
 8 equipment to convey electric current and installations of
 9 apparatus to be operated by current, except as provided in
 10 section 66-2812, shall be made substantially in accord with
 11 ~~the--National--Electrical--Code, as approved by the American~~
 12 ~~standards association, relating to this work as far as it~~
 13 ~~covers fire and personal injury hazards, and as the National~~
 14 ~~Electrical Code shall be amended. The standards as set forth~~
 15 ~~in--the--National--Electrical--Code--shall--be--prima--facie~~
 16 ~~evidence of minimum approved methods of construction for~~
 17 ~~safety--to--life--and--property. The affirmative vote of a~~
 18 ~~majority of all appointed members of the board shall be~~
 19 ~~required to set any standards that are more stringent than~~
 20 ~~those set forth in the National Electrical Code building~~
 21 codes adopted by the department of administration.

22 (2) Rules and standards relating to buildings and
 23 equipment ~~covered by the state or a municipal building code~~
 24 ~~are not effective until approved by the department of~~
 25 ~~administration and filed with the secretary of state shall~~

1 be promulgated by the department of administration."

2 Section 9. Section 66-2805.1, R.C.M. 1947, is amended
 3 to read as follows:

4 "66-2805.1. Department -- inspections -- tags.
 5 (1) The department of administration shall make inspections
 6 of electrical installations, issue inspection tags for these
 7 installations, and establish and charge a reasonable and
 8 uniform fee for the inspections, which may not exceed the
 9 expense of providing the inspection.

10 (2) Individuals, firms, cooperatives, corporations, or
 11 municipalities selling electricity are power suppliers.
 12 Power suppliers may not connect with or energize an
 13 electrical installation, under this act, unless the owner or
 14 a licensed electrical contractor has delivered to the power
 15 supplier an inspection tag covering the installation, issued
 16 by the department of administration.

17 (3) Immediately after an installation has been
 18 energized, the power supplier shall deliver to the
 19 department of administration the inspection tag covering the
 20 installation.

21 (4) It is unlawful for a person, partnership, company,
 22 firm, association, or corporation, other than a power
 23 supplier, to energize an electrical installation under this
 24 act, unless an application for an inspection tag covering
 25 the installation, together with the inspection fee, has been

forwarded to the department of administration."

Section 10. Section 82A-1607, R.C.M. 1947, is amended to read as follows:

"82A-1607. Electrical inspections and code making. The functions of the department of law enforcement and public safety of making inspections of electrical installations and issuing tags and charging fees therefor as set forth in section 66-2805(c)(i) and of establishing an electrical code as set forth in section 66-2802(i), which were transferred to the department in section 82A-1203, are transferred to the department of ~~professional--and--occupational--licensing and--the-board-of-electricians--subject-to-the-provisions-of this-act~~ administration."

Section 11. Section 75-8206, R.C.M. 1947, is amended to read as follows:

"75-8206. Review and approval of school building plans and specifications. (1) No school building in the state, either publicly or privately owned or operated, shall be built, enlarged, remodeled, or repaired until the plans and specifications for such construction have been submitted to the--state--board-of-health-and-the-state-fire-marshals-and such-public-agencies-have-endorsed-their-approval-on-such plans--and--specifications and approved by the department of administration AND THE STATE FIRE MARSHAL.

(2) The plans and specifications shall show in detail

the proposed construction of the building and shall illustrate and indicate conformity with the ~~regulations--of the-board-of-health-and-of-the-state-fire-marshals--The-plans and--specifications-shall-be-prepared-in-accordance-with-the regulations-of-the-board-of-health-of-the-state-of-Montana, the--regulations--of-the-Montana-state-fire-marshals--and-the building-code-promulgated-by-the-state-building-code-council rules promulgated by the department of administration AND THE STATE FIRE MARSHAL.~~

(3) As a service to districts, the superintendent of public instruction shall may review the plans and specifications submitted to the board-of-health department of administration to assist the districts in designing facilities for optimum utilization."

Section 12. Section 75-8207, R.C.M. 1947, is amended to read as follows:

"75-8207. Regulations of board of health. (1) The state board of health shall adopt regulations prescribing the requirements for school sites, school--buildings, ventilation,--heating,--lighting, water supply, sewage and waste disposal, and any other matters pertinent to the health and physical wellbeing of the pupils, teachers, and others who frequent schools. Such-regulations-of-the-state board-of-health-shall-require

(1)--at--least--fifteen--(15)--square-feet-of-floor-space

1 and two hundred (200) cubic feet of air space for each pupil
2 to be accommodated in each classroom;

3 {2}--a system of ventilation which shall be adequate to
4 produce satisfactory conditions of air in all rooms of the
5 building at all times and under all conditions;

6 {3}--a ventilation system of fire-resistant material
7 and construction; and

8 {4}--a system of lighting all parts of the building
9 that will produce an adequate quality and quantity of
10 illumination at all times;

11 (2) The state board of health shall furnish to the
12 districts copies of such regulations."

13 Section 13. There is a new R.C.M. section numbered
14 69-2125 that reads as follows:

15 69-2125. Department of administration -- sole
16 authority to promulgate building regulations. No state
17 agency except ~~THE STATE FIRE MARSHAL AND~~ the department of
18 administration may promulgate building regulations as
19 defined in 69-2105. ~~EXCEPT THE STATE FIRE MARSHAL MAY~~
20 ~~PROMULGATE REGULATIONS RELATING TO USE OF BUILDINGS AND~~
21 ~~INSTALLATION OF EQUIPMENT. THE STATE FIRE MARSHAL SHALL~~
22 ~~REVIEW BUILDING PLANS AND REGULATIONS FOR CONFORMITY WITH~~
23 ~~RULES PROMULGATED BY THE DEPARTMENT OF ADMINISTRATION. THE~~
24 ~~STATE FIRE MARSHAL SHALL ASSIGN PERSONNEL TO THE DEPARTMENT~~
25 ~~TO REVIEW BUILDING PLANS AND REGULATIONS FOR CONFORMITY WITH~~

1 ~~RULES PROMULGATED BY THE STATE FIRE MARSHAL AND THE~~
2 ~~DEPARTMENT OF ADMINISTRATION.~~

3 ~~SECTION 20. SECTION 82-1209, R.C.M., 1947, IS AMENDED~~
4 ~~TO READ AS FOLLOWS:~~

5 "82-1209. Investigation of fires Arson investigation
6 bureau powers and duties: (1) There is an arson
7 investigation bureau within the department of justice. The
8 bureau consists of a chief investigator and two deputies.
9 The bureau has full investigative subpoena power in arson
10 related matters and the chief investigator has authority to
11 appoint special deputy investigators in the same manner as
12 special deputy fire marshals are appointed in section
13 82-1208. Upon request, the state fire marshal shall
14 cooperate fully with the bureau.

15 (1)(2) The cause, origin, and circumstances of each
16 fire by which property has been destroyed or damaged shall
17 be investigated to determine the exact cause and
18 circumstances. The state fire marshal chief arson
19 investigator may superintend supervise and direct the
20 investigation if he deems it necessary.

21 (2)(3) If the fire occurs within a municipality or
22 organized fire district, the chief of the fire department
23 shall make the investigation. If the fire occurs outside a
24 municipality or organized fire district, the county sheriff
25 shall make the investigation if it appears that the fire

1 was-of-suspicious-origin-or-if-there-was-a-loss-of-human
 2 life-the-official-responsible-for-the-investigation-shall
 3 notify-the-state-fire-marshall ~~bureau~~ within-twenty-four-(24)
 4 hours-and-shall-file-a-written-report-of-the-cause-with-the
 5 state-fire-marshall ~~bureau~~ within-ten-(10)-days

6 (3)(4) If-the-property-was-insured-as-soon-as-any
 7 adjustment-has-been-made-a-person-representing-the
 8 insurance-company-shall-notify-the-state-fire-marshall ~~bureau~~
 9 of-the-amount-of-adjustment-and-the-apparent-cause-and
 10 circumstances-of-the-fire-on-forms-furnished-by-the-state
 11 fire-marshall ~~bureau~~

12 (4)(5) Each-official-responsible-for-investigating
 13 fires-shall-file-a-fire-incident-report-on-each-and-every
 14 fire-with-the-state-fire-marshall ~~bureau~~ Reports-shall-be
 15 on-forms-and-shall-contain-information-prescribed-by-the
 16 state-fire-marshall ~~bureau~~ These-reports-shall-be-sent-to
 17 the-state-fire-marshall-on-a-weekly-basis

18 Section 14. Saving clause. This act does not affect
 19 rights and duties that matured, penalties that were
 20 incurred, or proceedings that were begun before the
 21 effective date of this act.

22 Section 15. Severability. If a part of this act is
 23 invalid, all valid parts that are severable from the invalid
 24 part remain in effect. If a part of this act is invalid in
 25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the
 2 invalid applications.

3 Section 16. Repealer. Section 69-4117 and 69-5507 are
 4 repealed.

-End-